IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4145 OF 2004
IN
CRIMINAL APPEAL NO. 1083 OF 2004

Mohan Baban Awale. .. Applicant

Vs

State of Maharashtra. .. Respondent

Mr. Kedar Patil i/b Sudatta Patil for the applicant.

Mr. D.S. Mhaispurkar, APP, for the respondent-State.

CORAM: S.B. MHASE &
ANOOP V. MOHTA, JJ.

DATED: 09TH DECEMBER, 2004

P.C.:

1. Heard Mr. Patil for the applicant and Mr. Mhaispurkar, APP, for the State.

2. The incidence has occurred because of trifle issue of throwing sewage water in front of the door of the accused. They appear to be neighbours. Initially, there was an attempt to settle the dispute. However, in the evening suddenly the quarrel has picked up. It is noticed that the FIR and the subsequent recorded statements are at variance. The said variance also

continues in the substantive statements. No proper explanation is coming forward in this regard. So far as the role of accused No.2 is concerned, initially he was attributed the role of stabbing PW11. However, later on, it is changed and it is stated that the accused No.2 has given the knife to accused No.3 and accused No.3 inflicted the blow on the said injured witness.

3. We find, prima facie, that there are contradictions and improvements made and therefore, we are inclined to suspend the sentence. Apart from this, we find that during the trial also, the bail was granted to the accused persons and they have not misused and/or misutilised the bail. Therefore, the following order:

O R D E R :

(a) The order of sentence dated 4th August, 2004, in Sessions Case No. 61/1999 decided by the I Ad-Hoc Addl. Sessions Judge, Islampur, is hereby suspended till the final disposal of the Appeal.

(b) The applicant be released on P.R. Bond of Rs.20,000/- with two sureties in the like amount.

(c) The applicant is hereby directed to report to the Islampur Police Station once in a week i.e. on Sunday between 10.00 a.m. to 11.00 a.m.

4. Criminal Application is disposed of accordingly.

[ANOOP V. MOHTA, J.] **[S.B. MHASE, J.]**

[srpasha@hc]